

Mail completed form to:

PUBLIC UTILITIES COMMISSION  
500 EAST CAPITOL AVENUE  
PIERRE, SD 57501  
ATTN: SOUTH DAKOTA ONE CALL BOARD

OC04-002

RECEIVED

APR 12 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

## COMPLAINT

COMPLETE INFORMATION IS REQUIRED – ADDITIONAL PAGES MAY BE USED IF REQUIRED

### ALLEGATION OF PROBABLE VIOLATION(S) OF SOUTH DAKOTA ONE CALL LAWS

#### I. ACTION REQUESTED BY:

COMPLAINT FILED BY INDIVIDUAL ☐ OR BUSINESS\* ☐ PERSON FILING COMPLAINT: \_\_\_\_\_

COMPANY: Goldenwest Comm. ADDRESS: box 1711 PHONE NUMBER: 605-842-7010

SIGNATURE OF COMPLAINANT: Kevin Peters Service Foreman DATE: 04-13-2004 EMAIL ADDRESS: \_\_\_\_\_

\*If the complaint is files on behalf of a Company, the person signing this form should have the proper authority to file the complaint.

#### II. ACTION REQUESTED AGAINST:

NAME OF EXCAVATOR/FACILITY OPERATOR: Prairie Hills Construction Brian Schweigert  
PHONE NUMBER: 605-775-2724

ADDRESS: 28172 347 Ave.

WAS A LOCATE REQUESTED FROM SD ONE CALL? YES ☐ NO ☒ LOCATE TICKET #: n/a

START DATE ON TICKET: n/a

DID EXCAVATOR WAIT UNTIL THE START DATE/TIME ON THE TICKET BEFORE COMMENCING EXCAVATION? YES ☐ NO ☐ N/A ☒

WERE BURIED FACILITIES EXPOSED BY HAND OR WITH NON-INVASIVE EQUIPMENT PRIOR TO EXCAVATION? YES ☐ NO ☒ N/A ☐

#### III. FACILITY INVOLVED (IF ANY)

TYPE OF FACILITY INVOLVED: communications cable OPERATOR OF FACILITY (IF KNOWN): Golden West Comm.

OPERATOR ADDRESS: box 1711 PHONE NUMBER: 605-842-7010

DEPTH OF COVER: 36" PRESSURE: \_\_\_\_\_ VOLTAGE: \_\_\_\_\_ NUMBER OF CABLE PAIRS: 50 pair 22 gauge

#### IV. MARKING

WERE FACILITIES MARKED? YES ☐ NO ☐ N/A ☒

WAS THE MARKING COMPLETE PRIOR TO THE START TIME ON THE TICKET? YES ☐ NO ☐ N/A ☒

DID EXCAVATOR PRE-MARK WITH WHITE PAINT? YES ☐ NO ☐ N/A ☒

WAS THE FACILITY MARKED ACCURATELY (WITHIN 18 INCHES)? YES ☐ NO ☐ N/A ☒

**DID EXCAVATOR USE REASONABLE CARE TO MAINTAIN LOCATE MARKS FOR LIFE OF PROJECT?**

YES ☐ NO ☒

**HAVE YOU DISCUSSED THE PREVIOUS STATEMENTS WITH THE OTHER PARTY?** YES ☐ NO ☒

**IS THERE AGREEMENT?** YES ☐ NO ☒ **IF NO, PLEASE EXPLAIN:** contractor cut cable and then continued work operation tearing out another 60' of cable until he finished operation. At this point he parked equipment and left the area without contacting anyone to replace cable that he had just torn out.

**V. DAMAGE (IF ANY)**

**FATALITIES:** \_\_\_\_\_ **INJURIES:** \_\_\_\_\_ **LENGTH OF HOSPITALIZATION:** \_\_\_\_\_

**ESTIMATED PROPERTY DAMAGE (\$):** 4751.04 **NUMBER OF CUSTOMERS AFFECTED:** 35  
**DAMAGED IN:** PUBLIC ☐ PRIVATE ☒ **(RIGHT-OF-WAY)**

**PHOTOS OF THE DAMAGED FACILITY?** YES ☒ NO ☐

**ADDITIONAL INFORMATION:** \_\_\_\_\_

**VI. PROBABLE VIOLATION**

**SPECIFIC STATUTE(S) OR RULE(S) THAT WAS VIOLATED:** statute 49-7a-5 and statute 49-7a-12

**ADDRESS/LOCATION OF PROBABLE VIOLATION:** township 98n,range73w,section36 NE

**DATE/TIME OF PROBABLE VIOLATION:** 04-13-2004,time of occurrence first reports of trouble afternoon of Saturday the 13th of march 2004.

**HAVE YOU DISCUSSED THIS PROBABLE VIOLATION WITH THE PARTY THE ACTION IS FILED AGAINST:** YES ☐ NO ☒

**IF YES, NAME OF THE PARTY WITH WHOM YOU DISCUSSED THE PROBABLE VIOLATION:** \_\_\_\_\_

**DESCRIPTION OF PROBABLE VIOLATION:** A witness to the work operation told the technician that he informed Brian of cable terminals in the area before he hit the cable. Brian continued the work and when he hit the cable he continued to work until he had approx 60' of cable torn out. At this point he parked equipment and left without contacting anyone about the damaged plant. This also was on a Saturday so no one was on duty at time. When multiple reports started going into the repair office the on call technician was contacted. After tracking trouble to the cable damage he had to call for more help to get cable to temporarily lay on ground and splice the damaged 50 pair cable. Later we had to permanently replace 1100' of cable between to pedestals. His actions were completely negligent and he showed no concern for the customers he cut out of service. Also he broke south dakota one call statutes 49-7a-5 and 49-7a-12 for digging without a one call ticket and then not reporting trouble after cutting cable.

Mail completed form to:

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## COMPLAINT

COMPLETE INFORMATION IS REQUIRED – ADDITIONAL PAGES MAY BE USED IF REQUIRED

### ALLEGATION OF PROBABLE VIOLATION(S) OF SOUTH DAKOTA ONE CALL LAWS

#### I. ACTION REQUESTED BY:

COMPLAINT FILED BY INDIVIDUAL ☐ OR BUSINESS\* ☒ PERSON FILING COMPLAINT: Kevin Peters

COMPANY: GoldenWest Telecommunications Coop, Inc. ADDRESS: P. O. Box 1711, Winner, SD 57580  
PHONE NUMBER: 605-842-7010

SIGNATURE OF COMPLAINANT: Kevin Peters DATE: 04-12-2004 EMAIL ADDRESS:  
kevin\_peters@goldenwest.com

\*If the complaint is filed on behalf of a Company, the person signing this form should have the proper authority to file the complaint.

#### II. ACTION REQUESTED AGAINST:

NAME OF EXCAVATOR/FACILITY OPERATOR: Prairie Hills Construction, Brian Schweigert  
PHONE NUMBER: 605-775-2724

ADDRESS: 28172 347 Ave. Burke, So. Dak. 57533

WAS A LOCATE REQUESTED FROM SD ONE CALL? YES ☐ NO ☒ LOCATE TICKET #: NA

START DATE ON TICKET: NA

DID EXCAVATOR WAIT UNTIL THE START DATE/TIME ON THE TICKET BEFORE COMMENCING EXCAVATION? YES ☐ NO ☐ N/A ☒

WERE BURIED FACILITIES EXPOSED BY HAND OR WITH NON-INVASIVE EQUIPMENT PRIOR TO EXCAVATION? YES ☐ NO ☒ N/A ☐

#### III. FACILITY INVOLVED (IF ANY)

TYPE OF FACILITY INVOLVED: 50 pair communications cable

OPERATOR OF FACILITY (IF KNOWN): GoldenWest Telecommunications Company.

OPERATOR ADDRESS: P.O. Box 1711, Winner, SD 57580 PHONE NUMBER: 605-842-7010

DEPTH OF COVER: 36" PRESSURE:        VOLTAGE:        NUMBER OF CABLE PAIRS: 50 pair; 22 gauge

#### IV. MARKING

WERE FACILITIES MARKED? YES ☐ NO ☐ N/A ☒

WAS THE MARKING COMPLETE PRIOR TO THE START TIME ON THE TICKET? YES ☐ NO ☐ N/A ☒

**DID EXCAVATOR PRE-MARK WITH WHITE PAINT? YES ☐ NO ☐ N/A ☒**

**WAS THE FACILITY MARKED ACCURATELY (WITHIN 18 INCHES)? YES ☐ NO ☐ N/A ☒**

**DID EXCAVATOR USE REASONABLE CARE TO MAINTAIN LOCATE MARKS FOR LIFE OF PROJECT? YES ☐ NO ☒**

**HAVE YOU DISCUSSED THE PREVIOUS STATEMENTS WITH THE OTHER PARTY? YES ☐ NO ☒**

**IS THERE AGREEMENT? YES ☐ NO ☒ IF NO, PLEASE EXPLAIN:** Prairie Hills Construction cut a cable and then continued the work operation tearing out an additional 60' of cable before finishing the operation. At this point, they parked the equipment and left the area without providing notification of damage to GoldenWest Telecommunicaitons or the South Dakota One Call Center.

**V. DAMAGE (IF ANY)**

**FATALITIES:** \_\_\_\_ **INJURIES:** \_\_\_\_ **LENGTH OF HOSPITALIZATION:** \_\_\_\_

**ESTIMATED PROPERTY DAMAGE (\$):** 4751.04 **NUMBER OF CUSTOMERS AFFECTED:** 35

**DAMAGED IN: PUBLIC ☐ PRIVATE ☒ (RIGHT-OF-WAY)**

**PHOTOS OF THE DAMAGED FACILITY? YES ☒ NO ☐**

**ADDITIONAL INFORMATION:** \_\_\_\_

**VI. PROBABLE VIOLATION**

**SPECIFIC STATUE(S) OR RULE(S) THAT WAS VIOLATED:**

SDCL 49-7A-5 Notification of proposed Excavation – Praire Hills Construction did not notify the South Dakota One Call Notification Center of the proposed excavation as required by this statute

SDCL 49-7A-12 Notification of damage to underground facility – Prairie Hills Construction failed to immediately notify GoldenWest Telecommunications or the South Dakota One Call Center when communication cable was damaged as required by this statute.

**ADDRESS/LOCATION OF PROBABLE VIOLATION:** Township 98N, Range 73W, Section 36 NE

**DATE/TIME OF PROBABLE VIOLATION:** First reports of customers without telephone service were received the afternoon of March 13, 2004.

**HAVE YOU DISCUSSED THIS PROBABLE VIOLATION WITH THE PARTY THE ACTION IS FILED AGAINST: YES ☐ NO ☒**

**IF YES, NAME OF THE PARTY WITH WHOM YOU DISCUSSED THE PROBABLE VIOLATION:** \_\_\_\_

**DESCRIPTION OF PROBABLE VIOLATION:** A witness to the work operation told the technician that he informed Brian, from Praire Hills Construction, of cable terminals in the excavation area prior to the start of excavation activity. Brian proceeded to excavate and hit the 50 pair cable after which he continued to work until approximately 60' of cable had been torn out. At this point Prairie Hills Construction parked their equipment and left the excavation area without providing

notification to GoldenWest Telecommunications or the South Dakota One Call Center about the damaged plant. This damage occurred on a Saturday so no one was on duty at time. When multiple out-of-service reports were receive by the after-hours repair office the on-call technician was dispatched to determine the problem. After isolating the cause of the trouble to the damaged cable, the technician requested additional help so that cable could be temporarily placed on the ground and spliced to restore service to the 35 customers. Subsequently, GoldenWest Telecommunications permanently replaced 1100' of 50 pair cable between pedestals. The actions of Prairie Hills Construction were completely negligent and showed no concern for the property of GoldenWest Telecommunications or the customers that were impacted by their actions. The failure of Prairie Hills Construction to provide advance notification of the intent to excavate and to immediately report damage to underground facilities is a clear violation South Dakota Statutes 49-7A-5 and 49-7A-12

Pictures of the Damage and statement from GoldenWest technician who discovered the damage are attached

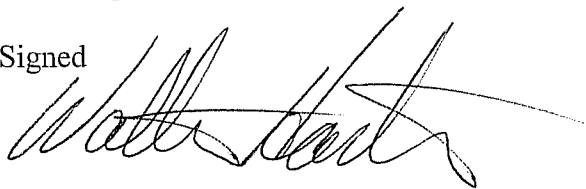
I Walter Harter, attest that I was the technician on call Saturday March the 13<sup>th</sup>, 2004. The callout center began to give me reports of no dial tone approximately 3:00 pm that afternoon. As I was gathering my plant information on the phone numbers in trouble, more reports were coming in, and all troubles seemed to be on the same cable facilities. In route to the area affected, another customer reported no dial tone, and also reported that there had been some digging done on their neighbor's property.

Knowing that with numerous trouble reports, and excavation in the area, I was most likely looking for a damaged cable. At this time I began to follow the cable route servicing these customers, and noticed a fairly new excavation just behind the fence in the NE ¼ of section 36 of 98N-73W. I did not notice any signs that a cable locate had been done in the area, (no flags or paint marks), so I stopped to check the area. As I walked the edge of the excavation (which was approximately 60' in width, east to west, 100' in length, north to south, and 10' in depth) I found a 4' section of cable protruding from the west slope of the excavation. I then opened up the cable and determined this was the working cable causing the out of service to our customers. At this time I needed to call for additional cable to be delivered to the sight, due to the cable being removed for the entire width of the excavation (approximately 60'). We do not, in normal circumstances, carry this size of cable (50-pair) in this amount of length for service restoration due to accidental damage. I then found, and dug the other end of cable from soft backfill in the opposite (east) bank of excavation.

While waiting for cable to be delivered, I inspected cable ends and prepared for temporary restoration. As I was performing these procedures a customer stopped and informed me of the excavators and landowner's names. This customer also told me he questioned the excavator about phone cable in the area, because of the visible cable closure in fence line to west approximately 300', and the excavator replied, "It must be in the road ditch". This assumption was incorrect; the cable was actually approximately 20' in private right of way, with R/W #'s: 77037 & 77038.

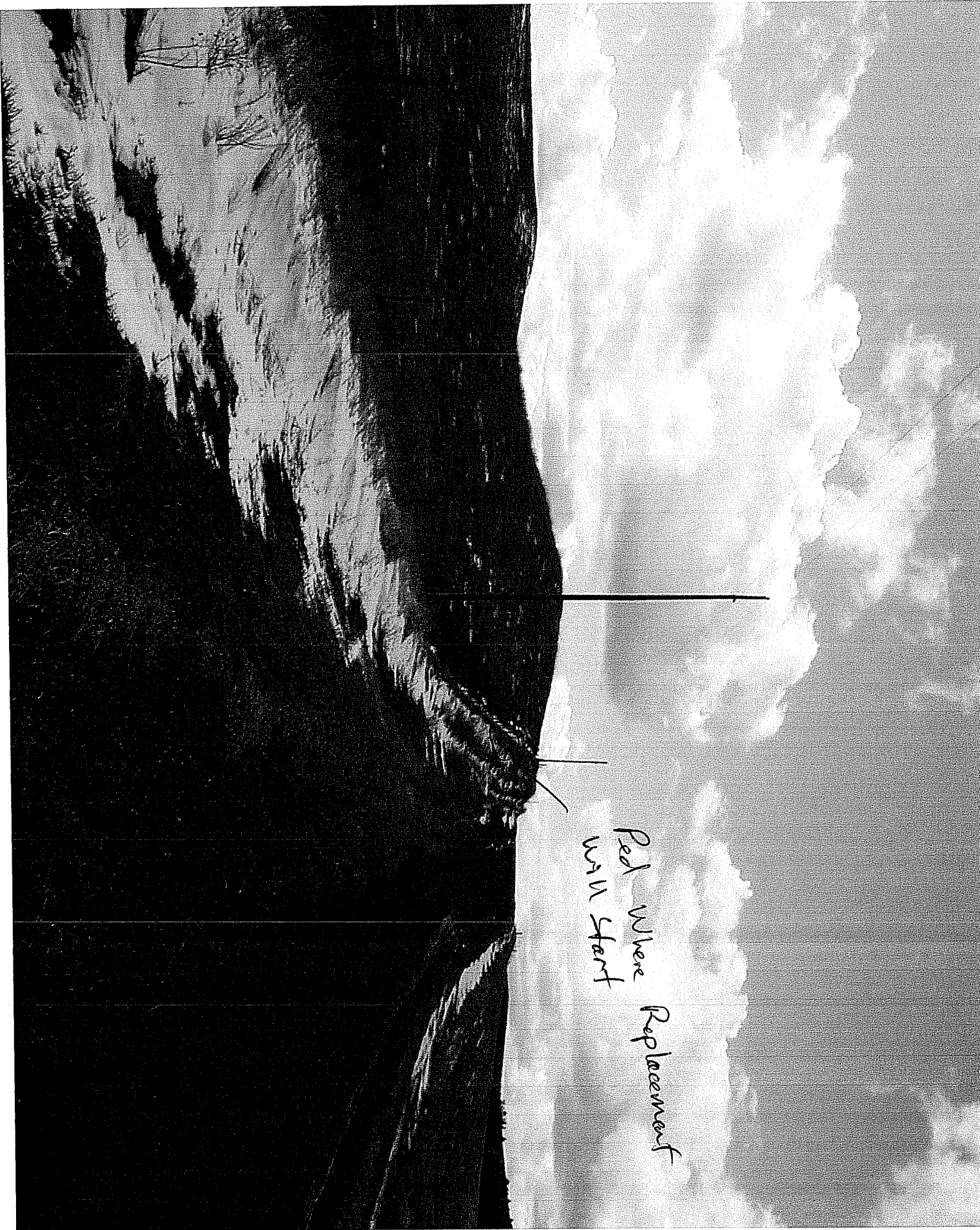
I Walter Harter, attest that any and all of this information is accurate to the best of my knowledge.

Signed

A handwritten signature in black ink, appearing to read 'Walter Harter', with a stylized, flowing script.

Walter Harter  
Special Equipment Technician  
Golden west Communications

Red where Replacement  
will start











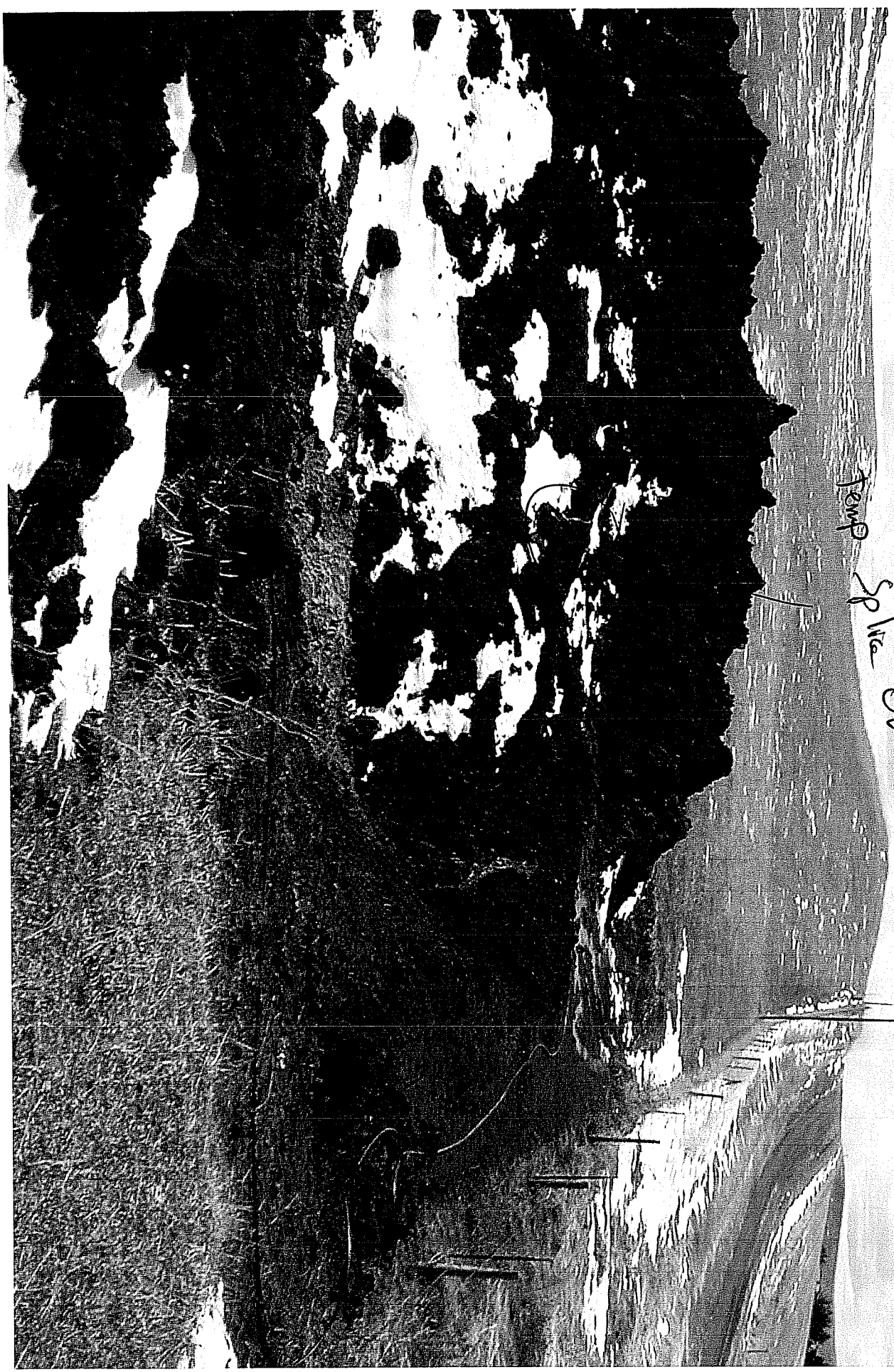


East End  
Of Road

Red located on North Side



Temp Spike On 50/22 Cable





Tank Spill Or  
50/22 Cade

